

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

YASH RAJ FILMS (USA) INC. )

Plaintiff, )

v. )

ATLANTIC VIDEO, et al., )

Defendants. )

RAJESH BANSAL, )

Defendant-Third-Party Plaintiff )

v. )

INDIA EMPORIUM, INC., And )  
SHARAD SHAH )

Third-Party Defendants. )

03 C 7069

Hon. Amy J. St. Eve

Magistrate Judge Keyes

**FILED**

NOV 19 2003  
MICHAEL W. DOBBS  
CLERK U.S. DISTRICT COURT

**DOCKETED**  
NOV 20 2003

**THIRD PARTY COMPLAINT**

NOW COMES RAJESH BANSAL, Defendant-Third-Party Plaintiff, by her attorneys, John W. Moore and John C. Spieske, of Moore & Spieske, P.C., and complains of Defendants INDIA EMPORIUM, INC., and SHARAD SHAH as follows:

1. Plaintiff YASH RAJ FILMS (USA) INC., has filed an amended complaint against Defendant RAJESH BANSAL, a copy of which is attached hereto as "Exhibit A."
2. This court has jurisdiction in this matter pursuant to 28 U.S.C. §1332(a) and 28 U.S.C. §1367(a).
3. Venue lies in this district pursuant to 28 U.S.C. §1391(a) and 28 U.S.C. §1391(c).
4. Rajesh Bansal is a citizen of Illinois.

5. India Emporium, Inc. ("India Emporium"), is a suspended California business corporation, with its principal place of business in California.

6. Third-Party Plaintiff is informed and believes that Sharad Shah ("Shah") is a citizen of California. India Emporium and Shah are hereinafter collectively referred to as "Third-Party Defendants."

7. India Emporium and Shah transact business in the State of Illinois and have repeatedly directed specific business solicitation to persons who reside in Illinois.

8. Third-Party Defendants are in the business of selling DVDs of Indian films and music. Shah is an employee, shareholder, and/or beneficial owner of India Emporium.

9. Third-Party Plaintiff has, from time to time, purchased DVDs of Indian films and music from Third Party Defendants. Items which Plaintiff, in its amended complaint, alleges infringe its copyrights and trademarks were purchased by Third Party Plaintiff from Third Party Defendants.

10. Every sale by Third-Party Defendants to Third-Party Plaintiff contained an implied warranty of non-infringement pursuant to section 312 of article 2 of the Uniform Commercial Code ("UCC"). This section of the UCC is incorporated into Illinois law as 810 ILCS 5/2-312, and into California law as Cal. Com. Code §2312.

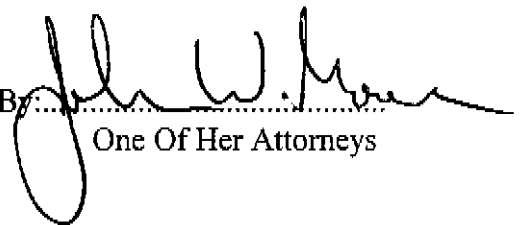
11. On numerous occasions, Third-Party Plaintiff specifically enquired of Shah as to the non-infringing nature of the goods sold by India Emporium. On every such occasion, Shah represented to Third Party Plaintiff that the goods sold by India Emporium were non-infringing. These representations by Shah constitute an express warranty by Shah pursuant to section 313 of article 2 of the Uniform Commercial Code ("UCC"). This section of the UCC is incorporated into Illinois law as 810 ILCS 5/2-313, and into California law as Cal. Com. Code §2313.

12. Pursuant to sections 312 and 313 of article 2 of the UCC, Third-Party Defendants have a duty to defend and indemnify Third Party Plaintiff against some or all of the claims of Plaintiff.

13. As a result of Third-Party Defendants' breach of their express and implied warranties of non-infringement, plaintiff has suffered damages due to the interruption of her business, physical damage to her leasehold, damage to her reputation in the business community, and attorney fees and costs in defending against plaintiff's complaint and amended complaint.

**WHEREFORE**, Defendant, Third-Party Plaintiff, Rajesh Bansal, demands judgment against Third Party-Defendants India Emporium, Inc., and Sharad Shah for all damages adjudged against Defendant Third-Party Plaintiff with respect to goods purchased from Third-Party Defendants and for all damages which Third-Party Plaintiff has suffered as a result of Third-Party Defendants' breach of warranty.

**RAJESH BANSAL**

By:   
One Of Her Attorneys


John W. Moore  
John C. Spieske  
Moore & Spieske, P.C.  
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**PROOF OF SERVICE**

The undersigned, an attorney, certifies that he caused the forgoing THIRD PARTY COMPLAINT to be served on the following individuals by mailing a copy of this motion, by first class mail from Loop Station, Chicago, Illinois, on November 19, 2003.

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.....  
John W. Moore

*See Case  
File for  
Exhibits*